IN THE UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

RICHARD GOODEN, ANDREW JONES, and
EKEYESTO DOSS,

Plaintiffs,

v.

NANCY WORLEY, in her official capacity as
Alabama Secretary of State; NELL
HUNTER, in her official capacity as
Jefferson County Voter Registrar; and
ANITA GIBSON, WALTER LONG, and MOLLY
MEADOWS in their official capacities as
Houston County Voter Registrars,

Defendants.

Case No. 2:05-cv-2562

Exhibit 8
March 19, 2004

Charles B. Campbell, Esq.
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Mr. Campbell:

This refers to Act 2003-415 (Second Special Session), which creates a procedure for obtaining a "Certificate of Eligibility to Register to Vote," which, subject to certain conditions, restores the voting rights of persons who have lost these rights as a result of conviction of a crime; and permits persons who have obtained a "Certificate of Eligibility to Register to Vote" to register or re-register to vote, for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on January 21, 2004.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

[Signature]

Joseph D. Rich
Chief, Voting Section
January 16, 2004

VIA USPS PRIORITY MAIL

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

RE: Submission under Section 5 of the Voting Rights Act of 1965
EXPEDITED CONSIDERATION REQUESTED

Dear Sir:

In accordance with Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c, we submit for preclearance by the Attorney General of the United States Act No. 2003-415 of the 2003 Second Special Session of the Alabama Legislature. Act No. 2003-415 adds a new section 15-22-36.1 to the Code of Alabama 1975 to create a procedure for obtaining a “Certificate of Eligibility to Register to Vote,” which will restore the voting rights of persons who have lost their voting rights as a result of conviction of a crime, subject to certain conditions. Act No. 2003-415 also amends section 17-3-10 of the Code of Alabama 1975 to permit persons who have obtained a “Certificate of Eligibility to Register to Vote” under the Act to register or re-register to vote. In addition to Act No. 2003-415, we are also submitting for preclearance the application of a preexisting procedural rule of the Board of Pardons and Paroles, Ala. Admin. Code r. 640-X-6-.01 (eff. May 14, 2002), to Certificates of Eligibility to Register to Vote. In accordance with 28 C.F.R. § 51.34(a) (2003), we respectfully request expedited consideration of this submission so that the Board of Pardons and Paroles may issue Certificates of Eligibility to Register to Vote as soon as possible, thus enabling persons whose voting rights are restored to register to vote well in advance of the June 1, 2004, State primary election.

In compliance with 28 C.F.R. § 51.27 (2003), we submit the following information to the Attorney General.

(a) Copy of enactment: A copy of Act No. 2003-415 is attached as Exhibit A. A copy of the Board of Pardons and Parole rule for applying for a pardon or remission of fine or forfeiture, Ala. Admin. Code r. 640-X-6-.01 (eff. May 14, 2002), which will be followed in processing applications for a “Certificate of
Eligibility to Register to Vote," is attached as Exhibit A-1.

(b) *Copy of prior laws affected:* A copy of the previous version of section 17-3-10 of the Code of Alabama 1975 is attached as Exhibit B.

(c) *Statement of change(s):* Section 2 of Act No. 2003-415 adds a new section 15-22-36.1 to the Code of Alabama 1975, creating a procedure for obtaining a "Certificate of Eligibility to Register to Vote" from the Board of Pardons and Paroles. The procedure for obtaining a "Certificate of Eligibility to Register to Vote" is more streamlined than the procedure for obtaining a pardon with restoration of voting rights under section 15-22-36. Section 15-22-36.1 does not affect the right to apply for a pardon with restoration of voting rights under section 15-22-36. *See* Act No. 2003-415, sec. 2, § 15-22-36.1(h).

**Substantive Criteria and Exclusions**

The substantive criteria to be met for a Certification of Eligibility to Register to Vote are set out in subsection (a) of section 15-22-36.1 as follows:

(a) Any other provision of law notwithstanding, any person, regardless of the date of his or her sentence, may apply to the board of pardons and paroles for a Certificate of Eligibility to Register to Vote if all of the following requirements are met:

1. The person has lost his or her right to vote by reason of conviction in a state or federal court in any case except those listed in subsection [(g)];
2. The person has no criminal felony charges pending against him or her in any state or federal court;
3. The person has paid all fines, court costs, fees, and victim restitution ordered by the sentencing court; and
4. Any of the following are true:
   a. The person has been released upon completion of sentence;
   b. The person has been pardoned; or
   c. The person has successfully completed probation or parole and has been released from compliance by the ordering entity.

Act No. 2003-415, sec. 2, § 15-22-36.1(a) (Please note a typographical error in subsection (a)(1) that mistakenly refers to subsection (h). One of the subsections was deleted and subsection (h) was redesignated subsection (g).)
Subsection 15-22-36.1(b) provides that “[t]he Certificate of Eligibility to Register to Vote shall be granted upon a determination that all of the requirements in subsection (a) are fulfilled.”

Persons convicted of certain specified crimes are not eligible to apply for a “Certificate of Eligibility to Vote.” Subsection 15-22-36.1(g) provides:

A person who has lost his or her right to vote by reason of conviction in a state or federal court for any of the following will not be eligible to apply for a Certificate of Eligibility to Register to Vote under this section:

- Impeachment, murder, rape in any degree, sodomy in any degree, sexual abuse in any degree, incest, sexual torture, enticing a child to enter a vehicle for immoral purposes, soliciting a child by computer, production of obscene matter involving a minor,
- Production of obscene matter, parents or guardians permitting children to engage in obscene matter, possession of obscene matter, possession with intent to distribute child pornography, or treason.


Procedures

Act No. 2003-415 also includes provisions governing the investigation and processing of applications for a “Certificate of Eligibility to Register to Vote” by the Board of Pardons and Paroles, as follows:

(c) Upon receipt of an application under this section, investigation of the request shall be assigned forthwith to an officer of the state board of pardons and paroles. The assigned officer shall verify, through court records, records of the board, and records of the department of corrections, that the applicant has met the qualifications set out in subsection (a). The officer shall draft a report of his or her findings and make a recommendation concerning whether the offender has successfully completed his or her sentence and has complied with all the eligibility requirements provided in subsection (a).

(d) After completing the investigation set out in subsection (c), the officer shall submit his or her report of investigation and recommendation to the executive director of the board of pardons and paroles, who shall refer the report and recommendation to a senior staff member to determine whether the applicant has met the qualifications set out in subsection (a).
(e) Upon the senior staff member’s completion of his or her review of the report and recommendation and a determination that all eligibility requirements of subsection (a) have been met, he or she shall file a report with the executive director of the board of pardons and paroles stating whether or not all of the criteria for obtaining a Certificate of Eligibility to Register to Vote have been met. Within forty-five days of the date of the initial application for a certificate under this section, the executive director shall make the reports and recommendations available to the members of the board for review and if, within five days, no objection is made by a board member on the basis that the criteria set out in subsection (a) have not been met, the executive director shall issue a Certificate of Eligibility to Register to Vote to the applicant; provided, however, that the forty-five day requirement in this sentence shall not apply for the first 90 days following the effective date of this Act. Upon determination by the senior staff member that any of the criteria have not been met, the applicant shall be notified of the reasons the Certificate of Eligibility to Register to Vote will not be issued and that upon satisfaction of all outstanding requirements, a new request may be submitted by the applicant.

(f) In the event a board member objects to the issuance of a Certificate of Eligibility to Register to Vote on the basis that the criteria set out in subsection (a) have not been met, the matter shall be referred to the next hearing docket of the board, without regard to any other provision of law affecting the setting of a hearing date, for the board to determine whether the applicant has met the criteria established by subsection (a). In the event the board determines, by a majority vote, that the criteria have been met, the executive director shall forthwith issue a Certificate of Eligibility to Register to Vote to the applicant. Upon a determination by the board that the criteria have not been met, the applicant shall be notified of the reasons the Certificate of Eligibility to Register to Vote will not be issued, and that upon satisfaction of all outstanding requirements, a new application may be submitted by the applicant.


The Board of Pardons and Paroles will apply the following preexisting procedural rule to Certificates of Eligibility to Register to Vote:

Any individual applying for a pardon, with or without remission of civil and political rights, or a remission of fine or forfeiture may do so by appearing at the Board’s office, by telephoning the pardon unit, or by writing a letter. This informal application process is intended to facilitate
application by individuals who lack formal education. The application can be initiated by the applicant providing his full name, social security number, date of birth, current address and current telephone number (if applicable). All other necessary information can be gathered by the officer assigned to investigate the applicant during the interview portion of the investigation. However, no investigation will be completed if the applicant does not desire the relief, so a third party may not apply on his behalf.

Ala. Admin. Code r. 640-X-6-.01 (eff. May 14, 2002).

Registration and Re-registration to Vote

Finally, Section 3 of Act No. 2003-415 also amends section 17-3-10 of the Code of Alabama 1975 to permit persons who have received a Certificate of Eligibility to Register to Vote "to register or reregister as an elector upon submission of a copy of the certificate to the board of registrars or deputy registrars of the county of his or her residence."


(e) Submitting Authority and jurisdiction responsible for change: State of Alabama.

(f) County and State, if not from County or State: Not applicable.

(g) Body responsible for change and mode of decision: Act of State legislature.

(h) Authority for Change: Act No. 2003-415 was adopted pursuant to the Legislature's "power to provide for and to regulate the administration of pardons, paroles, remission of fines and forfeitures," Ala. Const. amend. 38, and the Legislature's authority to prescribe procedures for registering to vote, Ala. Const. amend. 579.

(i) Date adopted: Act No. 2003-415 was adopted on September 25, 2003.

(j) Effective date: Act No. 2003-415 became "effective immediately upon its passage and approval by the Governor," that is, on September 25, 2003. Act No. 2003-415, sec. 8.

(k) Enforcement: No Certificates of Eligibility to Register to Vote have been issued yet under Act No. 2003-415. The Board of Pardons and Paroles has been
accepting applications for Certificates of Eligibility to Register to Vote and conducting the necessary investigations, but is awaiting preclearance to issue Certificates of Eligibility to Register to Vote.

(l) **Scope of change:** Act No. 2003-415 affects the entire State of Alabama.

(m) **Reason(s) for change:** Act No. 2003-415 was adopted to streamline the process for the restoration of voting rights after a person has completed his or her sentence, subject to the conditions and exceptions provided in the Act.

(n) **Anticipated effect on members of racial or language minority groups:** We do not have precise statistics on the race of persons who have lost their voting rights due to conviction of a crime in Alabama. We are aware of two national studies that attempt to estimate such data.

One national study published five years ago estimated that, although 7.5% of the adult population in Alabama had lost their voting rights based upon a criminal conviction, the percentage of black males who had lost their voting rights based upon a criminal conviction was 31%. Jamie Fellner & Marc Mauer, *Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States* 9 (Oct. 1998), http://www.sentencingproject/pdfs/9080.pdf. The figures reported by Fellner and Mauer are only estimates, and we cannot verify their accuracy or reliability; Fellner and Mauer explain their methodology at the end of their report. *Id.* at 24–26; see 28 C.F.R. § 51.26(b) (2003). If Fellner and Mauer’s estimates are reliable, however, they suggest that the streamlined process for restoration of voting rights in Act No. 2003-415 could be particularly beneficial for many African-Americans in Alabama.

Another, more recent, national study estimates that although 6.38% of Alabama’s voting age population was disenfranchised due to conviction of a crime as of December 31, 2000, the percentage of black voting age population disenfranchised due to conviction of a crime was 13.97%. Christoper Uggen & Jeff Manza, *Democratic Contraction? Political Consequences of Felon Disenfranchisement in the United States*, 67 Am. Sociological Rev. 777, 797–98, tbls. A & B (2002). Again, these figures are estimates, and we cannot verify their accuracy or reliability; Uggen and Manza explain their methodology in their article. *Id.* at 785–86; see 28 C.F.R. § 51.26(b). If Uggen and Manza’s estimates are reliable, however, they too suggest that the streamlined process for restoration of voting rights in Act No. 2003-415 could be particularly beneficial for many African-Americans in Alabama.

(o) **Past or pending litigation:** None.
(p) **Preclearance of prior practice:** Section 17-3-10 of the Code of Alabama 1975, as last amended by Act No. 584 of the 1978 Session of the Legislature, was precleared on June 12, 1978. Amendment 579 to the Constitution of Alabama of 1901 was precleared on June 24, 1996.

(q) **Redistricting and annexation information:** Not applicable.

(r) **Other information:**

**Minority Contacts**

<table>
<thead>
<tr>
<th>Representative, 97th District</th>
<th>Representative, 78th District</th>
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<tr>
<td>The Honorable Yvonne Kennedy</td>
<td>The Honorable Alvin Holmes</td>
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<tr>
<td>Alabama House of Representatives</td>
<td>Alabama House of Representatives</td>
</tr>
<tr>
<td>11 South Union Street, Room 537-C</td>
<td>11 South Union Street, Room 525-A</td>
</tr>
<tr>
<td>Montgomery, Alabama 36130</td>
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<tr>
<td>(334) 242-7737 (Legislative Office)</td>
<td>(334) 242-7706 (Legislative Office)</td>
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<tr>
<td>(251) 690-6416 (Work)</td>
<td>(334) 264-7807 (Work)</td>
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<tr>
<th>Representative, 56th District</th>
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<tr>
<td>The Honorable Priscilla Dunn</td>
<td>The Honorable George Bandy</td>
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<tr>
<td>Alabama House of Representatives</td>
<td>Alabama House of Representatives</td>
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<tr>
<td>11 South Union Street, Room 540-B</td>
<td>11 South Union Street, Room 529</td>
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<tr>
<td>Montgomery, Alabama 36130</td>
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<tr>
<td>(334) 242-7702 (Legislative Office)</td>
<td>(334) 242-7721 (Legislative Office)</td>
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<tr>
<td>(205) 426-3795 (Home)</td>
<td>(334) 749-0051 (Home)</td>
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<tr>
<th>Representative, 59th District</th>
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<tr>
<td>The Honorable Mary Moore</td>
<td>The Honorable John F. Knight</td>
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<tr>
<td>Alabama House of Representatives</td>
<td>Alabama House of Representatives</td>
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<tr>
<td>11 South Union Street, Room 539-D</td>
<td>11 South Union Street, Room 516-A</td>
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<tr>
<td>(334) 242-7608 (Legislative Office)</td>
<td>(334) 242-7660 (Legislative Office)</td>
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<td>(205) 322-0254 (District)</td>
<td>(334) 229-4286 (Work)</td>
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<th>Representative, 68th District</th>
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<tr>
<td>The Honorable Thomas E. Jackson</td>
<td>The Honorable Thad McClammy</td>
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<tr>
<td>Alabama House of Representatives</td>
<td>Alabama House of Representatives</td>
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<tr>
<td>11 South Union Street, Room 522-C</td>
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<tr>
<td>Montgomery, Alabama 36130</td>
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<tr>
<td>(334) 242-7738 (Legislative office)</td>
<td>(334) 242-7780 (Legislative Office)</td>
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<tr>
<td>(334) 246-3597 (Work)</td>
<td>(334) 284-1769 (Work)</td>
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</table>
The Honorable George Perdue  
Representative, 54th District  
Alabama House of Representatives  
11 South Union Street, Room 626  
Montgomery, Alabama 36130  
(334) 242-7778 (Legislative Office)  
(205) 934-2693 (Work)  

The Honorable Jerome Gray  
State Field Director  
Alabama Democratic Conference  
445 South McDonough Street  
Montgomery, Alabama 36104  
(334) 263-4040  

With the exception of Mr. Gray, all of the minority contacts listed above were sponsors or co-sponsors of Act No. 2003-415.

For further information, please contact Charles B. Campbell by telephone at (334) 353-3198 or by electronic mail at ccampbell@ago.state.al.us.

Sincerely,

WILLIAM H. PRYOR JR.  
Attorney General  
By:  

CHARLES B. CAMPBELL  
Assistant Attorney General

BP/CBC
Enclosures
cc w/o encl.:  
Hon. Nancy L. Worley  
Hon. Yvonne Kennedy  
Hon. Priscilla Dunn  
Hon. Mary Moore  
Hon. Thomas E. Jackson  
Hon. Alvin A. Holmes  
Hon. George C. Bandy  

Hon. John F. Knight, Jr.  
Hon. Thad McClammy  
Hon. George Perdue  
Hon. R.W. Granger III  
Hon. Gregory O. Griffin, Sr.  
Hon. Jerome Gray